

§ 891.813

necessary funds from a source other than project rental assistance funds for operating costs related to non-202 or -811 units.

§ 891.813 Eligible uses for assistance provided under this subpart.

(a) Assistance under this subpart may be used to finance the construction, reconstruction, or rehabilitation of a structure or a portion of a structure; or the acquisition of a structure to be used as supportive housing for the elderly; or the acquisition of housing to be used as supportive housing for persons with disabilities. Such assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly and persons with disabilities.

(b) Assistance under this subpart may not be used for excess amenities, as stated in § 891.120(c), or for Section 202 “prohibited facilities,” as stated in § 891.220. Such amenities or Section 202 prohibited facilities may be included in a mixed-finance development only if:

(1) The amenities or prohibited facilities are not financed, maintained, or operated with funds provided under the Section 202 or Section 811 program;

(2) The amenities or prohibited facilities are designed with appropriate safeguards for the residents’ health and safety; and

(3) The assisted residents are not required to use, participate in, or pay a fee for the use or maintenance of the amenities or prohibited facilities, although they are permitted to do so voluntarily. Any fee charged for the use, maintenance, or access to amenities or prohibited facilities by residents must be reasonable and affordable for all residents of the development.

(c) Notwithstanding any other provision of this section, § 891.315 on “prohibited facilities” shall apply to mixed-finance developments containing units assisted under Section 811.

[70 FR 54210, Sept. 13, 2005, as amended at 78 FR 37114, June 20, 2013]

24 CFR Ch. VIII (4–1–14 Edition)

§ 891.815 Mixed-finance developer’s fee.

(a) *Mixed-finance developer’s fee.* A mixed-finance developer may include, on an up-front or deferral basis, or a combination of both, a fee to cover reasonable profit and overhead costs.

(b) *Mixed-finance developer’s fee cap.* No mixed-finance developer’s fee may be a greater percentage of the total project replacement costs than the percentage allowed by the state housing finance agency or other tax credit allocating agency in the state in which the mixed-finance development is sited. In no event may the mixed-finance developer’s fee exceed 15 percent of the total project replacement cost.

(c) *Sources of mixed-finance developer’s fee.* The mixed-finance developer’s fee may be paid from project income or project sources of funding other than Section 202 or 811 capital advances, project rental assistance, or tenant rents.

§ 891.818 Firm commitment application.

The sponsor will submit the firm commitment application including the mixed-finance proposal in a form described by HUD.

§ 891.820 Civil rights requirements.

The mixed-finance development must comply with the following: all fair housing and accessibility requirements, including the design and construction requirements of the Fair Housing Act; the requirements of section 504 of the Rehabilitation Act of 1973; accessibility requirements, project standards, and site and neighborhood standards under 24 CFR 891.120, 891.125, 891.210, 891.310, and 891.320, as applicable; and 24 CFR 8.4(b)(5), which prohibits the selection of a site or location which has the purpose or effect of excluding persons with disabilities from federally assisted programs or activities.

§ 891.823 HUD review and approval.

HUD will review and may approve or disapprove the firm commitment application and mixed finance proposal.